

10 °C. (50 °F) and such live animals shall not be subjected to surrounding air temperatures which fall below 7.2 °C. (45 °F.), and which shall be measured and read in the manner prescribed in §3.141 of this part, for a period of more than 45 minutes unless such animals are accompanied by a certificate of acclimation to lower temperatures as prescribed in §3.136(c).

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live animal contained therein.

(c) Primary enclosures used to transport any live animal shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

[43 FR 21167, May 16, 1978, as amended at 43 FR 56217, Dec. 1, 1978. Redesignated at 44 FR 36874, July 22, 1979]

PART 4—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE ANIMAL WELFARE ACT

Subpart A—General

Sec.

4.1 Scope and applicability of rules of practice.

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AUTHORITY: 7 U.S.C. 2149 and 2151; 7 CFR 2.22, 2.80, and 371.7.

SOURCE: 42 FR 10959, Feb. 25, 1977, unless otherwise noted.

Subpart A—General

§4.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under section 19 of the Animal Welfare Act (7 U.S.C. 2149). In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

Subpart B—Supplemental Rules of Practice

§4.10 Summary action.

(a) In any situation where the Administrator has reason to believe that any person licensed under the Act has violated or is violating any provision of the Act, or the regulations or standards issued thereunder, and he deems it warranted under the circumstances, the Administrator may suspend such person's license temporarily, for a period not to exceed 21 days, effective, except as provided in §4.10(b), upon written notification given to such person of the suspension of his license pursuant to §1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(b) In any case of actual or threatened physical harm to animals in violation of the Act, or the regulations or standards issued thereunder, by a person licensed under the Act, the Administrator may suspend such person's license temporarily, for a period not to exceed 21 days, effective upon oral or written notification, whichever is earlier. In the event of oral notification, a written confirmation thereof shall be given to such person pursuant to §1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)) as promptly as circumstances permit.

(c) The temporary suspension of a license shall be in addition to any sanction which may be imposed against said person by the Secretary pursuant to the Act after notice and opportunity for hearing.

§4.11 Stipulations.

(a) At any time prior to the issuance of a complaint seeking a civil penalty under the Act, the Administrator, in his discretion, may enter into a stipulation with any person in which:

(1) The Administrator gives notice of an apparent violation of the Act, or the regulations or standards issued thereunder, by such person and affords such person an opportunity for a hearing regarding the matter as provided by the Act;

(2) Such person expressly waives hearing and agrees to pay a specified penalty within a designated time; and